

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARIA GUZMAN MORALES and
MAURICIO GUARJARDO, on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

FARMLAND FOODS, INC., a Delaware
Corporation and subsidiary of Smithfield
Foods,

Defendant.

Case No. 8:08-cv-504-JFB-TDT

**FINAL ORDER OF APPROVAL OF SETTLEMENT AND DISMISSAL WITH
PREJUDICE OF THE COLLECTIVE ACTION**

The Parties in this action have submitted a Joint Motion for Final Approval of The Collective Action Settlement. Upon consideration of the motion, as well as the declarations submitted in support of the motion; the parties' prior briefing regarding the settlement; the notices to class members; all other settlement documents and the pleadings in the case as a whole; and any argument at the Final Fairness Hearing, and having concluded that the settlement and accompanying notices are a fair and reasonable resolution of a *bona fide* dispute, the Court hereby enters the following order:

IT IS HEREBY ORDERED THAT:

1. The Court grants final approval of the parties' Settlement Agreement and Release ("Settlement Agreement") (Dkt. No. 425-3).
2. The Court further finds that the Settlement Agreement was reached following meaningful discovery and investigation conducted by Class Counsel; the Settlement Agreement

is a result of adversarial, arms'-length negotiation between the parties; and the terms of settlement in all respects are fair, adequate, and reasonable. In so finding, the Court considered evidence presented regarding the merits of the Plaintiffs' case, the risk, expense and complexity of the claims presented, the likely duration of further litigation, the amount offered in settlement, the extent of investigation and discovery completed, and the experience and views of Class Counsel. The Court further considered the one objection and one request for exclusion to the proposed settlement by Class Members. After full consideration, the Court finds that this settlement provides substantial benefits to the participating class members for the claims alleged in the complaint. The settlement is a fair, reasonable and adequate resolution of a *bona fide* dispute.

3. The Court grants Plaintiffs' request for service awards of \$5,000.00 each to the two Named Plaintiffs, Maria Guzman Morales and Mauricio Guajardo, and individual service awards of \$2,500.00 each of the Opt-In Plaintiffs (other than the two Named Plaintiffs) who gave a deposition in this case, Michael Calkin, Elija Davis, Tom Disney, Tammi Filipi, John Gatlauk, John Hochstein, Josefa Morales, Jose Quiroz, Robert Radin and Manuel Valdez. The Court finds that these service awards are fair and reasonable based on the assistance that the Named Plaintiffs and Opt-In Plaintiffs provided to Plaintiffs' Counsel on behalf of the Class.

4. The Court also finds that the designated *cy pres* recipient, The Omaha office of Nebraska Legal Aid, is reasonable and appropriate.

5. Class Member Barakat H. Merzah (Employee ID 212729) submitted a request to opt out of the settlement in accordance with Section VI.B.9 of the Settlement Agreement. Accordingly, he will not receive any settlement funds but instead is hereby dismissed without prejudice under Fed. R. Civ. P. 41, pursuant to Section VI.B.9 of the Settlement Agreement.

6. The following Class Members did not submit a Claim Form to the Claims Administrator which was timely or which the parties jointly agree to deem timely. In keeping with Farmland's election pursuant to Section VI.B.9 of the Settlement Agreement, these persons are hereby dismissed without prejudice under Fed. R. Civ. P. 41:

Employee ID	First Name	Last Name
103941	NHUNG THI HONG	NGUYEN
208800	RAPHAEL	OBARI
212978	SUZANNE C	BUCKENDAHL
208797	IVAN DE JESUS	OSLAN-SANTIAGO
206656	KAMIL O	KISHEIB
213284	HUGO A	RIVERA-BELIZ
403410	RUTH ELENA	RAMIREZ
401495	JUAN ANIVAL	ORTEGA-VALLADARES
101795	ORALIA	OLIVO
213025	JEKOW T	RUALMIM
212366	NAYIBE R	MOLINA
208096	MUZIN M	ABDALLAH
204224	WILDER R	MOLINA-ORTEGA
400761	GAGA	KPRAZEON
212319	JARED D	FONDELL
214239	JEFFREY G	LONG
213925	JANE	GIBSON
210858	NEFTALI	SOLARES-MARROQUIN
207439	LUAL A L	AJANG
209852	DAMARIS	FLORES-GONZALEZ
210401	AN BANG	DUONG
209156	JAMES N	LASU
212425	CHRISTOPHER A	HARRISON
207925	VICTORIA Y	RAGE
208258	ABEL	REVOLORIO
200958	CARLOS A	DELEON
205389	AHREN S	AMBROSE
202260	DARAKHSHAN	MORADI
209146	CRISTINA	LOPEZ
103915	CESAR A	LINARES
208628	CHUOL	PADOL
201056	NOE D	VELASQUEZ
208193	MANUEL	XON-MORALES
205129	SUAD O	KISHEIB
208693	SANTOS	RAMOS
214468	GABRIEL G	MANUEL

214551	ENEZ	HADJI
209435	JOHN L	YUAL
203379	CARMEN	ESCALANTE
213462	CHANTEL L	WICKWIRE
101658	ABRAN	VILLALOBOS
400372	PAE	PAE
209712	EHTI GAW	DAH
214175	RODA M	GAI
200800	JAMES M	GOP

7. The following Class Members submitted a Claim Form to the Claims Administrator which was timely or which the parties jointly agree to deem timely. The claims of these persons are hereby dismissed with prejudice under Fed. R. Civ. P. 41. After the Claims Administrator makes the calculations of Settlement Shares as to said Class Members and notifies Farmland of said amounts, Farmland shall deposit with the Claims Administrator the amounts attributable to said Class Members, together with the employer's lawful share of FICA and FUTA taxes on one-half of said amounts:

Employee ID	First Name	Last Name
100384	MAI T	NGO
100466	NOLBIA L	PRUDOT
100472	LEONARDO G	NAVA
100473	JUANA A	RAMIREZ
100490	NYARIAL T	THON
101502	ALFONSO	MEZA-C
101559	PAMELA A	STARKEY
101648	BENNY C	KILSON
102282	DAVID	VALDEZ
102337	JANICE E	BENTS
102428	NYAKUOTH	BEAL
103012	MARICELA	ROMO
103148	NGUYEN THANH	NGUYEN
103632	THAM VAN	NGUYEN
103765	KIM C	STEPHENS
103793	ROGER A	OBERMIER
103804	DAVID L	THOMPSON
103856	ANH VAN	DUONG
103991	JOYCE	TICNOR
104000	LARRY J	ROBINSON

104012	CAROL M	KOTAS
104035	BRIAN J	GARTZKE
104051	AMY SUE	DEVOR
104055	DAVID	ROGERS
104096	SON VAN	TRAN
104120	HUYENTRAN NGOC	HUYNH
104123	NGUYET THI	NGUYEN
104156	ELSA	TESFAMICHAEL
104186	MARTIN N	MADUOK
104223	JERALD J	SAURER
104236	MICHAEL J	CALKIN
104238	TAMMIE A	FILIPI
104251	EDDIE D	FOWLER
104267	KEVIN L	TICNOR
104289	LYNDA	STASTNY
104299	THAIS R	BREJCHA
104320	DAVID W	INDERLIED
104341	SHEILA M	RENSCHLER
104342	JASON K	DENKER
104346	TERESA	KSIONZEK
104347	DIEP VAN	NGUYEN
104370	DUC P	NGUYEN
104534	BRIAN S	LUKERT
104573	MATTHEW	SPANJER
104678	HUONG DUY	NGUYEN
104737	GERALDINE L	WALLER
104755	MICHELLE R	SCHULTZ
105193	DIANNE M	STOWELL
105256	DEBRA L	SPANJER
105639	SEBASTIAN	ALFARO
105855	RAQUEL	DEL CARMEN GARCI
105912	CELSO	VALDES
106079	IRMA C	ARREAGA
106199	MARTIN	DE JESUS DOMINGU
106285	MARIA	GUZMAN-MORALES
106598	CARLOS	HERNANDEZ PINEDA
200216	MIGUEL A	GARCIA
200533	JUAN	MORA-ROMERO
200642	BRUCE	ATH
200903	NESTORA O	GOMEZ
201228	GUADALUPE	ACOSTA
201445	HIEN QUANG	TRUONG
202165	STEPHEN T	JUD
202826	JOSE A	QUIROZ
202906	AHMED A	SHAN
202986	ALICIA	GARCIA

202997	OBEDE L	LASU
203174	DENG R	AGANG
203183	FRANCISCO J	GARCIA-MONTOYA
203438	VIRGINIA Y	FLORES
203464	JOHN A	KOR
203516	ELENA	TELLEZ
203637	ROMAN E	AGUILERA-MEJIA
204331	ILSER N	MENDEZ-LOPEZ
204482	ROBERT J	GRANNAS
204865	HUE THI	NGUYEN
204970	MAURICIO R	GUAJARDO
205124	THOMAS L	DISNEY
205251	PETR A	KOROL
205326	ARTURO	PULIDO-PRIETO
205399	MARLENE	CASTRO-VENTO
207025	JOSE J	PULIDO
207032	RHONDA R	FONDELL
207141	DAVID L	JOHN
207548	JOSE R	CUBANO-VICENTE
207636	EL FATEH K	OSMAN
207638	PETRO	BOYARCHUK
207639	MIGUEL A	MORALES
207640	JOSEFA D	MORALES
208208	JOHN K	NGUTH
208502	YECENIA L	ESCOBAR-ARRIAGA
208543	JAMES A	WEL
208584	MANUELA	GARCIA
208590	ROMAN A	PLAKSIN
208698	WOL O	YAK
209041	JAMES K	NYOK
209145	ESCARLIN M	MANCIA-ALVARADO
209148	JOSE L	ULLOA-ALVARADO
209153	MARTHA N	JOCK
209847	OFELIA	PEREZ
209848	FRANCISCO	PEREZ
209975	ROSEMARY	SANDERS
210248	MIREYA	LUJAN
210409	JIMMIE D	SMITH
210485	PETER P	RIEK
210549	ABDOURAHMANE Y	LAM
210667	SERHIY P	ANDRIYASHYN
210671	MAJOK D	DIT
210731	ASHLEY W	WOUNDED ARROW
212491	ORION J	BANDLOW
212596	JOSUE L	AMAYA
212668	JOHN C	GATLUAK

212725	FALLON D	HOWARD
212833	JEFFREY L	PUTNAM
213129	JODY R	MARKUT
213193	MARCUS D	JEFFERSON
213299	ELIJA J	DAVIS
213667	WILLIAM M	PYPER
213804	ADESSA A	KNICKERBOCKER
213918	LUCIO	SANCHEZ
213978	NYACHOAT C	GUANGONG
214315	JOHN P	HOCHSTEIN
214317	ANGELA L	GRAHAM
214461	TUT KUETH	KET
214607	IRENE	GOODWIN
214613	DAVID L	TELLEZ
400116	SOE	NEI
401158	PATRICIA	BEETEM
401501	LUIS R	CASTRO
101627	TIMMY	PARKER
105609	VILMA A	HIDALGO
204628	PETER B	BILIEW
205205	MARIA JIMENEZ DE	GUTIERREZ
207737	NESTOR	PINEDA
208247	AMANDA L	DOOLITTLE
210555	MEMPHIS K	MENSAH
214409	RHONDA J	WHITNEY
401496	HUONG NGOC	NGUYEN
104126	HANH KIM	NGUYEN
213130	JIMMY L	LIVINGSTON

8. The following Class Members did not submit a Claim Form to the Claims Administrator which was timely or which the parties jointly agree to deem timely. The claims of these persons are hereby dismissed with prejudice under Fed. R. Civ. P. 41. After the Claims Administrator makes the calculations of Settlement Shares as to said Class Members and notifies Farmland of said amounts, Farmland shall pay the Settlement Awards for the persons listed below in a lump sum directly to the Omaha office of Legal Aid of Nebraska, the mutually-agreed *cy pres* recipient.

Employee ID	First Name	Last Name
214105	RICARDO M	PERALES

213360	ROBERT	MASOLO-MAVANGA
209157	TOMAS	VENDRELL S
214248	ANYATH	AMAU
209004	ROBERTO M	ACOSTA
401168	THAN	ZAW
214057	WAH SOE	PAW
106346	MARTIN	JUNES-RIOS
207142	ADAM A	SABIL
401181	SERHIY	RATUSHKO
400101	MAY	HTOO
214467	MINH TAM	THUY LY
214252	KUO CHEN	LI
213916	ALBINA	GARCIA-JIMENEZ
213465	XE THI	LE
213359	RICHARD	MBONGO-MAKETA
212834	SAMUEL	BROWNE
212655	XUYEN THI	DINH
212594	MUAMER	BALAS
210113	HTOO	BAW
209550	QUOC Q	DOAN
209038	JULIA	OSORIO
104294	ALAN J	BERNASEK
204785	BRIAN G	BITENIEKS
205337	TAHIR N	AL-IBRAHIM
103687	JOSE A	GARCIA
208498	MIRIAN	BARILLAS
106036	MARLENE	BENAVIDES
103703	NGOC TRUC THI	NGUYEN
104462	VIRGINIA	ADAME DE LOPEZ
106545	ENA	AGUIRRE-REGALADO
106188	MARIO	BORRAYO
106018	YOLANDA	COLIN
103846	THANG T	DANG
100934	ROSA M	DIAZ
203170	ANNA	DO
104468	TUNG VUONG MANH	DOAN
104311	STEVEN L	EMPFIELD
106413	GLORIA	GUTIERREZ
103649	IBRO	HURKO
104455	AURELIA	IBARRA DE AVALOS
103694	MUNEVERA	IBRICIC
100433	ABDULAH	KAVAZ
100434	IVANA	KAVAZ
104358	TIME XUAN	KIM
202002	LOC TAN	MA
200033	MY TUYET THI	MAI

103925	HONG THI	NGUYEN
103899	MAIRA Y	PADILLA
204289	NORMA E	PEREZ-MENDEZ
104350	TAMMY	RUIZ
201808	KEFAYAT	SABETRASEKH
105541	PAULO	SOLTERO
203932	CONFESOR C	TAPIA
208202	THUYTRINH THI	TO
201008	LUYEN THI	TRAN
103603	PHUOC VAN	TRAN
200917	MANUEL	VALDEZ
103761	GORDON J	VLASAK
104257	FRANK W	WEISS
201346	KAWTHER I	YOUNIS

9. The parties are directed to comply with the terms of the Settlement Agreement as construed and implemented by this Order.

10. The claims administrator, Rust Consulting, Inc. is directed to disburse funds in compliance with the terms of the Settlement Agreement as construed and implemented by this Order.

11. Final judgment is hereby entered dismissing this action with prejudice, reserving only the issue of attorney' fees and expenses as provided below.

12. The Named Plaintiffs' and Class Members' Motion for Attorneys' Fees and Expenses shall be filed ten (10) days after the Effective Date. Farmland Foods' response shall be due thirty (30) days after the later of the date of filing of said Motion and all supporting materials or the Effective Date, and the Named Plaintiffs and Class Members shall have thirty (30) days to file their reply.

ENTERED this 2nd day of August, 2012.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge